

11 Evidentiary Hearing Requested 11

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION

(Write the District and Division, if any, of the
court in which the complaint is filed.)

Victor Johnson

(Write the full name of each plaintiff who is filing
this complaint. If the names of all the plaintiffs
cannot fit in the space above, please write "see
attached" in the space and attach an additional
page with the full list of names.)

-against-

Mersey Hospital
Orthopedic
Center

(Write the full name of each defendant who is
being sued. If the names of all the defendants
cannot fit in the space above, please write "see
attached" in the space and attach an additional
page with the full list of names. Do not include
addresses here.)

**Complaint for Violation of Civil
Rights**

(Prisoner Complaint)

18-3405-CV-S-MDH-P

Case No. _____
(to be filled in by the Clerk's Office)

REQUEST FOR TRIAL BY JURY

Plaintiff requests trial by jury. ☒ Yes ☐ No

I. The Parties to This Complaint

A. The Plaintiff(s)

Provide the information below for each plaintiff named in the complaint. Attach additional pages if needed.

Name

Victor Johnson

All other names by which you have been known:

(Same as Above)

Victor Johnson

ID Number

2291051

Current Institution

Greene County Justice Center

Address

1000 North Booneville Avenue
Springfield, Missouri
65802

B. The Defendant(s)

- Provide the information below for each defendant named in the complaint, whether the defendant is an individual, a government agency, an organization, or a corporation.
- Make sure that the defendant(s) listed below are identical to those contained in the above caption.
- For an individual defendant, include the person's job or title (if known) and check whether you are bringing this complaint against them in their individual capacity or official capacity, or both.
- Attach additional pages if needed.

Defendant No. 1

Name

Bradley Wyrsh

Job or Title
(if known)

Medical Doctor

Shield Number

N/A

Employer

Mercy Hospital Orthopedic Center

Address

3050 East Riverbluff
Ozark, Missouri 65721



Individual capacity



Official capacity

Defendant No. 2

Name

Mercy Hospital Administrator

Job or Title
(if known)

Hospital Administrator

Shield Number

N/A

Employer

Mercy Hospital Orthopaedic Center

Address

3050 East Riverbluff
Ozark, Missouri 65721



Individual capacity



Official capacity

II. Basis for Jurisdiction

Under 42 U.S.C. § 1983, you may sue state or local officials for the “deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws].” Under *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971), you may sue federal officials for the violation of certain constitutional rights.

A. Are you bringing suit against (check all that apply):



Federal officials (a *Bivens* claim)



State or local officials (a § 1983 claim)

B. Section 1983 allows claims alleging the “deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws].” 42 U.S.C. § 1983. Plaintiffs suing under *Bivens* may only recover for the violation of certain constitutional rights.

What federal constitutional or statutory right(s) do you claim is/are being violated by state or local officials?

Medical Malpractice
Loss of Use of Right Finger and Arm
Violation of Plaintiff's 8th Constitutional
Amendment Right of "Cruel and Unusual Punishment"

III. Prisoner Status

Indicate whether you are a prisoner or other confined person as follows (*check all that apply*):

- ☒ Pretrial detainee
- ☐ Civilly committed detainee
- ☐ Immigration detainee
- ☐ Convicted and sentenced state prisoner
- ☐ Convicted and sentenced federal prisoner
- ☐ Other (*explain*) _____

IV. Statement of Claim

Write a short and plain statement of FACTS that support your claim. Do not make legal arguments. You must include the following information:

- What happened to you?
- What injuries did you suffer?
- Who was involved in what happened to you?
- How were the defendants involved in what happened to you?
- Where did the events you have described take place?
- When did the events you have described take place?

If more than one claim is asserted, number each claim and write a short and plain statement of each claim in a separate paragraph. Attach additional pages if needed.

(See Attached Statement of Facts)

Statement of Facts for Civil Claim

On or about August 26, 2018, I the Plaintiff had Surgery on my Right hand my Pinky finger had Broken Tendons, the Surgery was performed by Doctor Bradley Wyrsch, who stated we are going to repair those broken Tendons so that you can use your hand again I promise. The actual Surgery took approximately (2) Two Hours, then I was released back to Greene County Jail facility on August 27, 2018, Plaintiff was maliciously Denied Pain Medication by the Jail Staff.

Approximately (2) Two weeks later after Surgery on September 10, 2018, the Doctor had Scheduled Physical Therapy for my Pinky finger. I informed Doctor and Nurses of the excruciating Pain in my Right hand since the Surgery. No Pain Prescription was prescribed by the Doctor Bradley Wyrsch. On September 18, 2018, the Doctor had Scheduled Physical Therapy. Second therapy visit was told that the Doctor was out of the office and informed the Nurses of the continuance excruciating Pain in Right hand and Pinky finger since the Surgery. Denied Medication Again, did not receive any Pain Medication since Surgery was performed. On or about September 24, 2018, the Doctor

INDIGENT

had scheduled a (3rd) Third Physical Therapy Session Verbally informed Doctor Wyrsech and the Nurses that Plaintiff had not had any Medication for the Pain since the operation/surgery was willfully ignored by the Doctor. Plaintiff Verbally informed the Doctor that there was NO Movement at all in my Right Hand since the Surgery Why. The Plaintiff was given Coband to wrap finger as the swelling in the Right Hand continued, was again Not Prescribed Pain Medication in error. On or about October 02, 2018, was taken to be seen by Doctor Wyrsech for a Regular Doctor Visit, was taken with another inmate in the same examination room without any Privacy Again told Doctor Wyrsech about the excruciating Pain in Right Hand and Pinky Finger, told him about the NO Movement in hand stated this was normal and told the Doctor about the Continuance Swelling in my Right hand was Medically Ignored. Plaintiff was willfully Denied Dressing Changes after Surgery by Greene County Jail Staff. Again on or about October 18, 2018, had a scheduled (4th) Fourth Physical Therapy Session Verbally informed Nurses that No Movement was coming back to the Plaintiff. INDIGENT

Pinky Finger after all the Sessions of Physical Therapy Why. On or about October 21, 2018, at Mercy Orthopedic Center and the Greene County Jail Facility All Dressing Changes were Completely Denied. Plaintiffs (12) Twelve week Medical Follow-up with the Doctor was completely Denied by Doctor Wyrseh, without Medical Cause. Plaintiff contends that his Right Pinky Finger is completely useless without Movement and Pinky Finger hurts constantly with excruciating Pain Why? Plaintiff is suing for Medical Malpractice Medical Neglect, Loss of Physical Use of Right Pinky Finger, the Named Defendant, Doctor Bradley Wyrseh, willfully failed to Medical Prescribe Plaintiff Pain Medication after Surgery, and the defendant's Violated the Plaintiffs (8th) Eighth Constitutional Amendment Right of "Cruel and Unusual Punishment" by allowing to suffer unwanted Pain in error. Plaintiff Right hand and Right Pinky Finger is useless without feeling the Tendons that were in Plaintiff's Finger are now dead in error, due to the Named defendant's Medical Malpractice in failing to correct broken Tendons in Right Pinky Finger as defendant stated the defendant should be held liable.

INDIGENT

V. Injuries

If you sustained injuries related to the events alleged above, describe your injuries and state what medical treatment, if any, you required and did or did not receive.

Physical Loss of use of Right Arm and Physical Loss of use of Right Pinky Finger due to Doctor Bradley Wyruch, Medical Malpractice / Medical Neglect. Plaintiff suffered excruciating pain in Right Arm and Right Pinky Finger due to Doctor Wyruch, Failure to Prescribe him any Pain Medication at Surgery in error.

VI. Relief

State briefly what you want the court to do for you. Make no legal arguments. Do not cite any cases or statutes. If requesting money damages, include the amounts of any actual damages and/or punitive damages claimed for the acts alleged. Explain the basis for these claims.

Plaintiff seeks a Jury Trial ~~and~~ Punitive, Monetary, and Compensation Damages in the amount of \$ 10,000,000 dollars for the loss of use of Right Arm and Right Pinky Finger due to Medical Malpractice.

VII. Exhaustion of Administrative Remedies Administrative Procedures

The Prison Litigation Reform Act ("PLRA"), 42 U.S.C. § 1997e(a), requires that "[n]o action shall be brought with respect to prison conditions under section 1983 of this title, or any other Federal law, by a prisoner confined in any jail, prison, or other correctional facility until such administrative remedies as are available are exhausted."

Administrative remedies are also known as grievance procedures. Your case may be dismissed if you have not exhausted your administrative remedies.

- A. Did your claim(s) arise while you were confined in a jail, prison, or other correctional facility?

☒ Yes
☐ No

If yes, name the jail, prison, or other correctional facility where you were confined at the time of the events giving rise to your claim(s).

(current Housing)

Greene County Justice Center
1000 North Boonville Avenue
Springfield, Missouri 65802

- B. Does the jail, prison, or other correctional facility where your claim(s) arose have a grievance procedure?

☐ Yes
☒ No
☐ Do not know

- C. Does the grievance procedure at the jail, prison, or other correctional facility where your claim(s) arose cover some or all of your claims?

☐ Yes
☒ No
☐ Do not know

If yes, which claim(s)?

Plaintiff suing a Private entity
Mercy Hospital Orthopedic Center

- D. Did you file a grievance in the jail, prison, or other correctional facility where your claim(s) arose concerning the facts relating to this complaint?

☐ Yes
☒ No

If no, did you file a grievance about the events described in this complaint at any other jail, prison, or other correctional facility?

☐ Yes
☒ No

E. If you did file a grievance:

1. Where did you file the grievance?

NO Grievance Filed
Suing a Private Entity
Mercy Hospital Orthopedic Center

2. What did you claim in your grievance? (Attach a copy of your grievance, if available)

NO Grievance Filed
Suing a Private Entity
Mercy Hospital Orthopedic Center
Ozark, Missouri 65721

3. What was the result, if any? (Attach a copy of any written response to your grievance, if available)

NO Grievance Filed
Suing a Private Entity
Mercy Hospital Orthopedic Center
Ozark, Missouri 65721

4. What steps, if any, did you take to appeal that decision? Is the grievance process completed? If not, explain why not. (Describe all efforts to appeal to the highest level of the grievance process.)

NO Grievance Filed
Suing a Private Entity
Mercy Hospital Orthopedic Center

F. If you did not file a grievance:

1. If there are any reasons why you did not file a grievance, state them here:

NO Grievance Filed
Suing a Private Entity
Mercy Hospital Orthopedic Center
Ozark, Missouri 65721

2. If you did not file a grievance but you did inform officials of your claim, state who you informed, when and how, and their response, if any:

NO Grievance Filed
Suing a Private Entity
Mercy Hospital Orthopedic Center
Ozark, Missouri 65721

G. Please set forth any additional information that is relevant to the exhaustion of your administrative remedies.

Did not Exhaustion
any Administrative
Remedies

(Note: You may attach as exhibits to this complaint any documents related to the exhaustion of your administrative remedies.)

VIII. Previous Lawsuits

The “three strikes rule” bars a prisoner from bringing a civil action or an appeal in federal court without paying the filing fee if that prisoner has “on three or more prior occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury.” 28 U.S.C. § 1915(g).

To the best of your knowledge, have you had a case dismissed based on this “three strikes rule”?

☐
☒

Yes
No

If so, state which court dismissed your case, when this occurred, and attach a copy of the order if possible.

_____ N/A _____

- A. Have you filed other lawsuits in state or federal court dealing with the same facts involved in this action?

☐ Yes
☒ No

- B. If your answer to A is yes, describe each lawsuit by answering questions 1 through 7 below. *(If there is more than one lawsuit, describe the additional lawsuits on another page, using the same format.)*

1. Parties to the previous lawsuit

Plaintiff(s) _____
Defendant(s) _____ N/A _____

2. Court *(if federal court, name the district; if state court, name the county and State)*

_____ N/A _____

3. Docket or index number

_____ N/A _____

4. Name of Judge assigned to your case

_____ N/A _____

5. Approximate date of filing lawsuit

_____ N/A _____

6. Is the case still pending?

☐ Yes
☒ No

If no, give the approximate date of disposition. _____ N/A _____

7. What was the result of the case? (For example: Was the case dismissed? Was judgment entered in your favor? Was the case appealed?)

N/A

- C. Have you filed other lawsuits in state or federal court otherwise relating to the conditions of your imprisonment?

☐ Yes
☒ No

- D. If your answer to C is yes, describe each lawsuit by answering questions 1 through 7 below. (If there is more than one lawsuit, describe the additional lawsuits on another page, using the same format.)

1. Parties to the previous lawsuit

Plaintiff(s) _____
Defendant(s) _____
N/A

2. Court (if federal court, name the district; if state court, name the county and State)

N/A

3. Docket or index number

N/A

4. Name of Judge assigned to your case

N/A

5. Approximate date of filing lawsuit

N/A

6. Is the case still pending?

☐ Yes
☒ No (If no, give the approximate date of disposition):

N/A

7. What was the result of the case? (For example: Was the case dismissed? Was judgment entered in your favor? Was the case appealed?)

N/A

IX. Certification and Closing

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Date of signing: 12/02/2018

Signature of Plaintiff

Printed Name of Plaintiff

Prison Identification #

Prison Address

City State Zip Code

X
Victor Johnson
CFN# 2291051
1000 North Boonville Avenue
Springfield, Missouri
65802

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WEST. DIST. OF MO.
KANSAS CITY, MO.

2018 DEC -6 PM 1:07

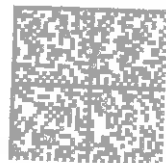
CLERK U.S. DIST. COURT

WEST. DIST. OF MO.
KANSAS CITY, MO.

Plaintiff Victor Johnson CFN# 2291051
Greene County Justice Center
1000 North Bonville Avenue
Springfield Missouri 65803

United States District Court
Western District of Missouri
ATTN: Clerk of the Court For Filing
400 East Ninth Street
Kansas City, Missouri

64106



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